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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,722	02/25/2002	Frederic Gaviot	PHFR 010020	8254

24737            7590            06/04/2007  
PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
06/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/084,722	GAVIOT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Farzana E. Hossain	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 December 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 December 2006 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to communications filed 12/01/2006. Claims 1 and 3 are amended. Claims 2 and 4-8 are original.

### ***Response to Arguments***

2. Applicant's arguments filed 12/01/2006 have been fully considered but they are not persuasive.

The applicant argues that Eyer does not teach the limitations of the claims. The applicant argues that Eyer discloses paying subscribers can skip some commercials while not paying subscribers cannot skip the commercials and that the paying users will be provided with access points that non paying users are not provided (Pages 5-6). The applicant further argues that the invention as claimed in claim 1 discloses that service provider can send the same signal to all users independently of the subscription chosen by the users (Page 6).

In response to the arguments, Eyer discloses a method of subscription in processing an input program is implemented by the service provider and the service provider offers various subscriptions which comprise the particular event (Column 16, lines 23-32, Column 17, lines 13-16, Table 1 Column 18). Eyer discloses that the input program is sent to paying and non paying users and paying users can manually or

Art Unit: 2623

automatically skip commercials, the subscribers received data 1040 and played data is based on what the paying subscribers skip (Figure 10, 1040). The rejection is maintained.

3. Applicant's failure to adequately traverse the Examiner's taking of Official Notice in the last Office Action is taken as an admission of the fact(s) noticed.

### ***Specification***

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

5. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Drawings***

6. The drawings are objected to because the Figures now contain blocks without any labels. New figures should be submitted with labels in addition to the current

reference numerals. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Eyer et al (US 6,588,015 and hereafter referred to as "Eyer").

Regarding Claims 1, 7, and 8, Eyer teaches a method of subscription to a service in respect of a processing of an input program comprising at least one particular event such as commercials or advertisement, songs, tracks, scheduled programming, i.e., TV shows), the method comprises the steps, implemented by a service provider:

offering various subscriptions (service classes - Table 1, Column 18) to a user who is to make a choice of subscription (Column 16, lines 23-32, Column 17, lines 13-16) and who is furnished with a device (program receiver, e.g., radio or TV, Figure 2, 200) comprising means of selection of the particular event (the user selects the particular program selection they want, e.g., track, programming stream, commercial (Column 4, lines 11-20; Column 7, lines 1-5, 16-18, 50) which can be configured on the basis of the chosen subscription (Figure 10; Column 15, lines 59-65, Column 16, lines 23-42, Column 17, lines 13-21) and are suitable for providing an output program comprising or not comprising the particular event according to the chosen subscription (a person with subscription to a premium service can control what content is output and what content is not output, e.g., with the correct subscription commercials can be selected to play or not play by the user, i.e., manually or automatically; Column 16, lines 37-45; service class 1, Table 1, Column 18, line 54- Column 19, line 22)

validating (access-controlling and determining whether the user paid for the subscription service or not and what tier of service is enabled) the user's choice of

Art Unit: 2623

subscription, which triggers a step of configuring the means of selection (Column 16, lines 29-34; Column 17, lines 13-20; Column 5, lines 61-67).

Regarding Claim 2, Eyer discloses all the limitations of Claim 1. Eyer discloses that the input program contains a table of events (control data comprises list of received programming and programming information), the means of selection being suitable for selecting a particular event on the basis of an event status value in the table (Column 6, lines 1-7, lines 30-32, Column 2, lines 24-27, lines 32-35, Column 4, lines 25-26; Column 6, lines 50-61).

Regarding Claim 3, Eyer discloses all the limitations of Claim 1. Eyer discloses the device comprises means of accelerated reading of a recorded program; and means of deactivation for deactivating the accelerated reading means (fast-forwarding) of a recorded (buffered) program during the particular event in respect of a specified subscription (fast-forwarding of events such as commercials is disabled if the user does not have the proper subscription level (Column 6, lines 56-61; Column 7, lines 50, 59-60; Column 16, lines 38-44; Column 16, lines 52-55; service class 2 - Column 19, lines 23-30).

Regarding claim 4, Eyer discloses all the limitations of Claim 1. Eyer discloses the particular event contains at least one advertisement (Column 16, lines 52-55).

Regarding claim 6, Eyer discloses all the limitations of Claim 1. Eyer discloses the validating step is implemented by the service provider by sending the device a signal characteristic of the chosen subscription, the signal being suitable for configuring

the means of selection as a function of the chosen Subscription (the service provider sends access control data/information which enables the device/decoder to detect what access the user has to control the received programming presentation in accordance with the service tier subscribed; Column 17, lines 13-21; Column 6, lines 55-61; Column 5, lines 57-67).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer in view of Applicant's admission of fact.

Regarding claim 5, Eyer discloses all the limitations of Claim 1. Eyer discloses the choice of the subscription is made by selecting one subscription from among several subscriptions offered (table 1, Column 18, lines 49-co1. 19, line 55) and further teaches a graphical interface 262 - Figure 2 linked to the receiver/device 200; Column 7, lines 25-28) and filtering cement according to user input preferences Column 19, line 63-co1.20, line 17). However, Eyer fails to specifically disclose "on a graphics interface".

Applicant's admission of fact provides evidence to include use of graphical interfaces to enable user's to select subscriptions offered and filter content is

accordance with user preference. (As evidenced by Serena US 2006/0031415, Figure 6; 610, Figure 7; Page 4, paragraphs 0047-0048).

It would have been obvious to one of ordinary skill at the time of the applicant's invention to modify the system of Eyer to include on a graphics interfaces for the advantage of enabling request for a higher tier of service to be made the user easily and quickly which increases the user's satisfaction of the product which will also generate increased revenue for the service providers.

***Note to Applicant***

11. The examiner of record has changed to Farzana Hossain.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH  
May 24, 2007

  
SCOTT E. BELIVEAU  
PRIMARY PATENT EXAMINER